

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

EVERLYN WILSON

PLAINTIFF

V.

CIVIL ACTION NO. 3:12CV782 DPJ-FKB

WAL-MART STORES EAST, LP

DEFENDANT

ORDER

This personal-injury action is before the Court on three motions in limine [62, 63, 64].

After considering the filings of the parties, the Court finds as follows:

1. Plaintiff's Motion in Limine [62]

Plaintiff seeks to exclude evidence of prior claims or lawsuits and evidence of her physical and mental condition before she fell on July 9, 2011. The first part of the motion is unopposed and therefore granted. The second part is opposed and will be denied. Plaintiff claims that she suffered physical injury to her back and right leg in the fall. She also seeks damages for pain and suffering and loss of enjoyment of life as well as hedonic and other non-economic damages. *See* Complaint at 6. Evidence of pre-existing mental or physical conditions that may impact her current claims for damages are relevant and are not substantially more prejudicial than probative. Plaintiff's claim that she was asymptomatic before July 9, 2011, goes to weight. Plaintiff's motion [62] is granted in part and denied in part.

2. Plaintiff's Motion to Pre-Admit Evidence [63]

Plaintiff wishes to use a key piece of evidence in her opening statement. The motion is unopposed because Wal-Mart wishes to do the same. The motion [63] is granted, but the parties are cautioned that argument is improper during opening statements.

3. Defendant's Motion in Limine [64]

Defendant seeks to exclude three categories of evidence: (1) evidence that Plaintiff suffered a prior incident at the same Wal-Mart store; (2) evidence of other accidents at Wal-Mart; and (3) evidence related to Wal-Mart's net worth and financial standing. All motions [64] are conceded and therefore granted.

SO ORDERED AND ADJUDGED this the 5th day of August, 2014.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE